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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,118	10/08/2003	Natsushi Miura	26H-006	4696

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12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER

GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/680,118	Applicant(s) MIURA ET AL.	
	Examiner Harry A. Grosso	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anhegger et al (5,031,302) in view of Bovellan et al, both of record, and Goto et al (4,573,694).

2. Anhegger et al discloses a filler neck with a resin neck body (1, Figure 1: 28, Figure 3) and a metal retainer (2, Figure 1, column 2, lines 19-28; 29, Figure 3, column 3, lines 27-32) and a sealing member (21, Figures 1 and 2; 30, Figures 3 and 4) comprising an O-ring disposed between the inner peripheral surface of the neck body and the outer peripheral surface of the retainer and closer to the fuel tank than the flange. The collar at the open end of the neck body serves as the flange for fixing the filler neck to a vehicle (Figure 1).

3. Anhegger et al does not teach the flange fixed to a vehicle. Bovellan et al discloses a filler neck with a similar flange construction and further discloses the fixing of the filler neck to a vehicle using the flange (Figure 2, column 2, lines 37-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the flange on the filler neck to fix the filler neck to a vehicle as disclosed by Bovellan et al with the filler neck disclosed by Anhegger et al to provide the means for fixing the filler neck to a vehicle.

4. Anhegger et al does not teach the use of a fuel cap with gasket ring between the cap and the retainer. Goto et al discloses a filler neck of similar construction with a fuel cap (38) having a gasket ring (46) between the cap and the retainer (Figure 2, column 3, lines 12-18) to provide secure engagement and a fluid-tight seal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a fuel cap with a gasket ring between the cap and the retainer as disclosed by Goto et al in the filler neck disclosed by Anhegger et al to provide secure engagement and a fluid-tight seal.

Response to Arguments

5. Applicant's arguments filed February 28, 2006 have been fully considered but they are not persuasive.

6. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, all of the prior art cited is analogous art. They represent knowledge generally available to one of ordinary skill in the art. Anhegger et al discloses a filler neck but does not address how it is fixed to the vehicle. Bovellan et al discloses a filler neck of similar construction in the flange area fixed to a vehicle. Since the filler neck of Bovellan et al is similar to that of

Anhegger et al and the filler neck of Anhegger et al would be fixed to a vehicle, it is obvious that the method of fixing the filler neck of Bovellan et al to the vehicle can be applied to the filler neck of Anhegger et al.

7. Applicant also argues there is no motivation to combine Goto with Anhegger et al and Bovellan et al. Anhegger et al discloses a filler neck for a fuel tank but does not disclose the a cap which would be required on any filler neck. Goto discloses the use of a fuel cap with a gasket ring between the cap and the retainer is known in the art. Since a cap is required for the filler neck of Anhegger et al, one would be motivated to use the cap of Goto since it is know to have a cap on a filler neck and the cap of Goto is also known.

8. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

9. Applicant argues that Anhegger et al does not reveal a flange. In response, the Examiner considers the collar at the open end of the neck body serves as the flange for fixing the filler neck to a vehicle (Figure 1). The Merriam–Webster OnLine Dictionary

defines a flange as a rib or rim for strength, for guiding or for attachment to another object. The structure of Anhegger et al meets the structural requirements of the claims.

10. Applicant argues that Bovellan et al and Goto do not teach a flange structure as required by the claims. In response, Anhegger et al discloses a flange and Bovellan et al and Goto are not depended upon for this feature.

11. Applicant appears to argue that none of the references disclose a sealing member disposed between a retainer and the neck body , and disposed closer to a fuel tank than a flange of the neck body. In response, Anhegger et al discloses the sealing member (21), which is disposed, in accordance with the structure recited in the claims as discussed in the above action.

Conclusion


12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nathan Newhouse
Supervisory Patent Examiner
Art Unit 3727

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